

NOT FOR PUBLICATION

**CLOSING**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

ETHAN LOPEZ,

Plaintiff,

v.

CROWNE PLAZA GOLF RESORT AND  
CASINO, et al.,

Defendants.

CIVIL NO. 06-01538 (SRC)

**ORDER AND OPINION**

**CHESLER, District Judge**

**IT APPEARING** that Plaintiff's complaint was filed on March 30, 2006; and it further

**APPEARING** that Federal Rule of Civil Procedure 4(m) states that "[i]f service of the summons and complaint is not made upon a defendant within 120 days after filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice"; and it further

**APPEARING** that Plaintiff did not serve his complaint by July 28, 2006, 120 days after the complaint was filed; and it further

**APPEARING** on September 14, 2006, this Court issued a Notice of call for dismissal pursuant to Rule 4(m), which specified that proof of service must be filed with the Court before September 25, 2006; and it further

**APPEARING** that Plaintiff failed to file proof of service with this Court prior to September 25, 2006 and failed to respond to the Court's call for dismissal in any way

prior to the return date; and it further

**APPEARING** that Plaintiff's complaint was dismissed on September 29, 2006 for failure to file proof of service or to demonstrate good cause for not doing so; and it further

**APPEARING** that on November 2, 2006, the Court received a letter from Plaintiff requesting that Plaintiff's complaint be reinstated; and it further

**APPEARING** that Plaintiff attempted to serve Defendant Intercontinental Hotels in May, but was notified on May 17, 2006 that service could not be effectuated in New Jersey; and it further

**APPEARING** that Plaintiff's letter indicates that he then served the Defendant in Georgia and received an affidavit of service on September 25, 2006; and it further

**APPEARING** that Defendant was not served until months after the passage of the 120 day time limit; and it further

**APPEARING** that Plaintiff has failed to demonstrate good cause for failing to respond to the Court's September 14, 2006 Notice of Call for Dismissal; and it further

**APPEARING** that Plaintiff has not demonstrated good cause for extending the time for service;

**IT IS THEREFORE** on this 14th day of November, 2006, hereby

**ORDERED AND DECREED** that Plaintiff's motion for reinstatement is **DENIED**.

/s/ Stanley R. Chesler  
Stanley R. Chesler, U.S.D.J.